

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DANIEL JAMES CURTIS,

Petitioner,

v.

CASE NO. 10-13630
HONORABLE GEORGE CARAM

STEEH

CATHERINE BAUMAN,

Respondent.

_____ /

ORDER

- (1) DENYING PETITIONER'S MOTION FOR APPOINTMENT OF COUNSEL,**
(2) DENYING PETITIONER'S MOTIONS FOR AN EVIDENTIARY HEARING, AND
(3) GRANTING PETITIONER'S MOTION FOR LIBERAL CONSTRUCTION
OF HIS PLEADINGS

Petitioner Daniel James Curtis has filed a *pro se* petition for the writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner is challenging his Alcona County convictions for armed robbery and accessory after the fact. He alleges that (1) his appellate attorney rendered ineffective assistance of counsel during the appeal of right, (2) the prosecution destroyed exculpatory evidence, (3) the destruction of a witness's handwritten statements deprived him of his right to confront and cross-examine the witnesses against him, and (4) his constitutional rights were violated by the trial judge's failure to recuse himself. Pending before the Court are Petitioner's motions for appointment of counsel, for an evidentiary hearing, and for liberal construction of his pleading.

"[T]here is no constitutional right to counsel in habeas proceedings," *Post v.*

Bradshaw, 422 F.3d 419, 425 (6th Cir. 2005) (citing *Coleman v. Thompson*, 501 U.S. 722, 752-53 (1991)), and the interests of justice do not require the appointment of counsel, 18 U.S.C. § 3006A(a)(2)(B), or an evidentiary hearing at this time. However, “[p]ro se plaintiffs enjoy the benefit of a liberal construction of their pleadings and filings.” *Boswell v. Mayer*, 169 F.3d 384, 387 (6th Cir.1999).

Accordingly, Petitioner’s motion for liberal construction of his pleadings [Dkt. #6] is **GRANTED**, but his motions for appointment of counsel [Dkt. #3] and for an evidentiary hearing [Dkt. #5 and #7] are **DENIED**. The Court will reconsider Petitioner’s motions for appointment of counsel and an evidentiary hearing, if necessary, following receipt of the responsive pleading and state court record. It will not be necessary for Petitioner to renew his motions.

Dated: January 4, 2011

S/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on January 4, 2011, by electronic and/or ordinary mail and also to Daniel Curtis at Kinross Correctional Facility, 16770 S. Watertower Drive, Kincheloe, MI 49788.

S/Josephine Chaffee
Deputy Clerk